

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**April 9, 2003**

DIVISION ONE

B160792     Sweeney-Smith  
                 v.  
                 Smith  
B165524     Sweeney-Smith  
                 v.  
                 Smith

Filed order consolidating above captioned appeals.

B155624     Foerstel  
                 v.  
                 Jeffrey et al.

Filed order vacating submission order of February 26, 2003. The Court having been advised of the death of appellant's counsel and of the respondent's compliance with Code of Civil Procedure section 286, the cause is reset for oral argument on May 21, 2003 @ 9:00 a.m.

DIVISION TWO

B155518     Olson  
                 v.  
                 Cohen

Filed order modifying opinion. (No change in the judgment)

DIVISION THREE

B157158      Nicholas Marko Gregovich      (Not for Publication)  
v.  
Arnold C. Cinman, etc. et al.

The judgment is affirmed. Respondent(s) to recover costs.

Aldrich, J.

We concur: Klein, P.J.  
Kitching, J.

B161691      People      (Not for Publication)  
v.  
Johnson

The trial court's August 22, 2002, order releasing Theodore Johnson on parole is reversed. The matter is remanded to the superior court with directions to issue an order granting Johnson's petition for writ of habeas corpus and directing the Board of Prison Terms as follows: The Board of Prison Terms is ordered to vacate its decision of November 27, 2001, and to schedule and provide Johnson a new parole suitability hearing and to render a new parole determination in accordance with the guide lines set forth in this opinion. The new parole hearing is to take place within 30 days of the filing of this opinion. Jurisdiction to enforce this order, and to make an enforce any orders necessary to effectuate this order, is vested in the superior court.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

B161715      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Yvonne A.

The appeal is dismissed.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

April 9, 2003 (Continued)

### DIVISION THREE (Continued)

B158899      Brau Union International GMBH, et al.    (Not for Publication)  
v.  
R.C. Renfroe Company, Inc.

The order denying the motion to vacate is reversed and the trial court is directed to hold further proceedings consistent with this opinion. Appellants are to recover costs on appeal.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

DIVISION FOUR

B154147 People (Not for Publication)  
v.  
O'Brien

The judgment of conviction is modified to reflect two, instead of three enhancements under section 667, subdivision (a)(1). Thus, appellant's sentence will be reduced by five years. The abstract of judgment also is modified to reflect that appellant was found not guilty on count four, and that he suffered two prior prison terms within the meaning of 667.5, subdivision (a)(1). In all other respects, the judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

B160835      MacDonald  
v.  
Mowry

Filed order denying petition for rehearing.

DIVISION FIVE

B160515     Los Angeles County, D.C.S.  
              v.  
              Alvaro G.

Filed order modifying opinion. Father Alvaro G.'s petition for rehearing is denied. (No change in the judgment)

DIVISION SIX

Court convened at 9:00 A.M.

Present: Yegan, Acting P.J., Coffee, J., Perren, J. and G. Bents, Deputy Clerk.

B161770     Eric M. v. Mario C.

Argument waived, cause submitted.

B159024     Marian  
              v.  
              State of California

Appearances:  
Jonathan Galatzan, Deputy Attorney General, for respondent and there being no appearance for appellant. Argument waived, cause submitted.

B159194     Geyser  
              v.  
              Excel Legacy Corp.

Merits:  
Argued by Scott David Baskin for appellant / cross-respondent and by Joseph J. Wheeler for respondent / cross-appellant. Cause submitted.

April 9, 2003 (Continued)

DIVISION SIX (Continued)

B159021      Khoilian  
                 v.  
                 Rolfe

Merits:

Argued by Stanley P. Lieber for appellant and by M. Michele Lines for respondents. Cause submitted.

B157704      Burke  
                 v.  
                 Goodfriend

Merits:

Argued by Alan H. Fenton for appellant and by Richard L. Moomau for respondent. Cause submitted.

Court recessed at 10:10 A.M.

Court reconvened at 1:30 P.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Deputy Clerk.

Each of the following:

B155969 Adamek v. Szpak  
B158652 McMullen v. Jones  
B161205 Dept of Social Services v. Wendy P.

Argument waived, cause submitted.

B161157      John F.  
                 v.  
                 Rustem G.

Merits:

Argued by Marc Gradstein for appellant and by Richard C. Gilman for respondent. Cause submitted.

DIVISION SIX (Continued)

B159432     Herzog  
              v.  
              Retirement Board of Santa Barbara Co. Employees'  
              Retirement System

Merits:  
Argued by Russell R. Ghitterman for appellant and by Alan A. Blakeboro  
for respondent. Cause submitted.

B161103     Brown  
              v.  
              Campos

Merits:  
Argued by Vanessa Kirker for appellant and by Laura G. Dewey for  
respondent. Cause submitted.

B61685     Cambridge Integrated Services Group  
              v.  
              Worker's Compensation Appeals Board  
              Ebner, Respondent

Review:  
Presented by Alan S. Freeman for petitioner and by Michael K. Greenberg  
for respondent Ebner. Presentation waived by respondent Workers'  
Compensation Appeals Board. Cause submitted.

Coffee, J. left the bench.

B160936     Petruska  
              v.  
              Applegate-Carlentine

Merits:  
Argued by Debbie Applegate-Carlentine, appellant, appearing in propria  
persona, and by David W. Magnusson for respondents. Cause submitted.

Court adjourned at 2:40 P.M.

DIVISION SIX (Continued)

B154219      Operating Engineers Funds, Inc.  
                 v.  
                 City of Thousand Oaks

Filed order submitting cause.

DIVISION SEVEN

B159536      Los Angeles County, D.C.S.      (Not for Publication)  
                 v.  
                 Christopher B.,  
                 In re Morgan B., et al.

That portion of the order returning the children to Mother is affirmed. Those portions of the dependency court's order finding the section 342 petition true as to the father is reversed as is the order taking custody away from Father. Because there is a possibility that the erroneous sustaining of the section petition may have affected the dependency court's disposition, the dependency court is ordered to conduct a new hearing with updated social evaluations as required by sections 358 and 358.1.

Munoz, J. (Assigned)

We concur:   Johnson, Acting P.J.  
                 Woods, J.

B158716      Boyd      (Not for Publication)  
                 v.  
                 State of California, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Munoz, J. (Assigned)

We concur:   Perluss, P.J.  
                 Johnson, J.

April 9, 2003 (Continued)

DIVISION SEVEN (Continued)

B155146 Cook (Not for Publication)  
B155990 v.  
Capital Pacific Holdings, Inc.

The judgment is reversed. On remand the trial court is instructed to reinstate the jury's verdict. CPH's appeal from the post-judgment order is dismissed. The Cooks are to recover their costs on appeal.

Perluss, P.J.

We concur: Johnson, J.  
Woods, J.

B155829 Infante  
v.  
Co. of Los Angeles, et al.

Filed order modifying opinion. (No change in the judgment)

DIVISION EIGHT

B154970 Joel Drum (Certified for Publication)  
v.  
Bleau, fox & Associates, et al.

The judgment is reversed. Drum shall recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.  
Boland, J.